

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

CHARLES KENNEDY,

Plaintiff, : Case No. 3:08-cv-296

-vs- : District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

DEPARTMENT OF THE AIR FORCE,

Defendant.

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**DECISION AND ORDER REGARDING MOTION FOR RECONSIDERATION**

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This case is before the Court on Plaintiff's Motion for Reconsideration (Doc. No. 25).

It is clear from the Motion that Plaintiff misapprehends the effect of the District Court's adoption of the Report and Recommendations. Because the Report found that the Complaint stated at least one claim for relief, there was no judgment entered and the case has not been dismissed. Because there has been no judgment, the Order Adopting the Report and Recommendations amounts to an interlocutory ruling. In accordance with that ruling, Plaintiff should file an amended complaint omitting the First and Fourth Claims for Relief and re-pleading the other claims to overcome, if he can, the deficiencies in the original Complaint.

Plaintiff shall file his amended complaint not later than June 1, 2009.

May 15, 2009.

s/ **Michael R. Merz**  
United States Magistrate Judge